

WASHINGTON STATE DEPARTMENT OF REVENUE

SPECIAL NOTICE

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The Tax Application for Tree and/or Stump Removal from Existing Orchards

Recently, questions have been raised regarding the tax treatment of removing fruit or nut-bearing trees and/or stumps from orchards, which is often performed using bulldozers or other equipment not generally associated with farming activities. This Special Notice clarifies the tax treatment for these removal charges when performed for farmers.

The Department considers the removal of trees or stumps from existing orchards to be a horticultural service when performed for farmers in preparation for replanting orchards or cultivating a different agricultural product (e.g., wine grapes). This activity remains a horticultural service regardless of the type of equipment used, or whether all or only some of the trees or stumps are removed. Charges for horticultural services performed for farmers are subject to the service and other activities B&O tax classification and sales tax does not apply. (Also see WAC 458-20-209 for information regarding the application of tax to horticultural services performed for farmers.)

Charges for removal of trees or stumps from orchards in preparation for nonagricultural purposes is a retail sale when performed for consumers. For instance, removing trees from an orchard to prepare the area for housing or commercial development is subject to retailing B&O tax and retail sales tax when performed for a consumer, even if the consumer is a farmer. This is a land clearing activity and not a horticultural service.

Record keeping requirements—both farmers and contractors need to keep sufficient documentation in their records to substantiate any claim that the removal of trees or stumps from an existing orchard is a horticultural service and not subject to the retail sales tax. The farmer should indicate in his or her records that the hired services are in preparation for replanting an orchard or cultivating a different agricultural product, whichever is applicable. The documentation should be retained for five years.

An example of documentation that may be retained by the contractor is a statement from the farmer certifying that the services are in preparation of replanting an orchard (or cultivating a different agricultural product). The contractor is relieved of liability for retail sales tax if this statement includes the farmer's name and address, location where the work is performed, farmer's signature, and is received in good faith by the person removing the trees or stumps.

For more information, contact the Department's Telephone Information Center at 1-800-647-7706.

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